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U.S. Department of State

Indonesia Report on Human Rights Practices for 1996

**Released by the Bureau of Democracy,
Human Rights, and Labor,
January 30, 1997.**

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INDONESIA

Despite a surface adherence to democratic forms, the Indonesian political system remains strongly authoritarian. The Government is dominated by an elite comprising President Soeharto (now in his sixth 5-year term), his close associates, and the military. The Government requires allegiance to a state ideology known as "Pancasila," which stresses consultation and consensus, but is also used to limit dissent, to enforce social and political cohesion, and to restrict the development of opposition elements. The judiciary is subordinated to the executive and the military.

The primary mission of the 450,000-member armed forces, which includes 175,000 police, is maintenance of internal unity and stability. Military spending is approximately 1.4 percent of the gross national product. Despite a decrease in the number of active or retired military officers in key government positions, the military retained substantial nonmilitary powers under a "dual function" concept that accords it a political and social role in "developing the nation." There continued to be numerous, credible reports of human rights abuses by the military and the police.

Indonesia has a vigorous and rapidly growing economy. The benefits of economic development are widely dispersed, but pervasive corruption remains a problem. Pressures for change and sporadic unrest led to stronger demands that the Government act more effectively to address social and economic inequities. In rural areas, discontent often focused on the grievances of small land owners--especially those forced off their land by powerful economic and military interests. In some regions, exploitation of natural resources has entailed environmental degradation with adverse social consequences.

The Government continued to commit serious human rights abuses. Rising pressures for change, including those by political activists and opponents, triggered tough government actions that further infringed on fundamental rights. The authorities maintained their tight grip on the political process, which denies citizens the ability to change their government democratically. In other areas, such as increased police and army accountability for abuses, the decline in extra-legal executions, access to prisoners, the variety of information sources, and tolerance of public criticism, there were encouraging signs along with substantial grounds for continuing concern. Reports of extrajudicial killings--including of unarmed civilians, disappearances, and torture and mistreatment of detainees by security forces continued. In practice, legal protections against torture are inadequate, and security forces continued to torture and mistreat detainees, particularly in regions such as Irian Jaya and East Timor. There were persistent reports that some of the detainees seized by the Government

During unrest in Jakarta sparked by the government-backed seizure of an opposition party headquarters on July 27 and during the subsequent crackdown on political opponents were subjected to mistreatment. Reports of arbitrary arrests and detentions and the use of excessive violence (including deadly force) continued. Prison conditions remained harsh, and security forces regularly violated citizens' right to privacy.

The Government continued to impose severe limitations on freedom of assembly and association. In anticipation of the 1997 parliamentary elections, the Government took a number of actions to intimidate political opponents. Notably, the Government crudely engineered the removal of a popular opposition party leader and the forcible takeover of the party headquarters. The headquarters-takeover

and the subsequent rioting in Jakarta, the worst in decades, resulted in at least 5 dead, over 20 missing, scores of injuries, and over 200 arrests. Some witnesses testified in court that one person was killed during the takeover of the party headquarters. The Government, invoking limited use of the controversial Antisubversion Law, responded with a wave of arrests, interrogations, and expanded surveillance aimed at reining in nongovernmental organizations (NGO's) and political activists. The International Committee of the Red Cross (ICRC) and the National Human Rights Commission were able to visit many of those detained or hospitalized after the takeover and riot, although access has been sporadic.

An independent election monitoring committee, formed by private organizations, prompted a mixed government response. Its head was called in for questioning during the Government's crackdown on political opponents and NGO's after the July 27 incident. On the other hand, the Indonesian National Human Rights Commission, despite limited resources, and occasional government pressure and intimidation, vigorously undertook investigations and publicized its independent findings and recommendations. In some but not all cases, the Government acted on these findings.

The judiciary is still subservient to the executive branch and subject to widespread corruption. A justice's criticism of judicial corruption focused increased attention on the need to reform the judicial system. In a controversial and much criticized action, the Supreme Court reimposed a prison sentence on Indonesia's most prominent independent labor leader, Muchtar Pakpahan, reversing its own 1995 decision to overturn the conviction. Reversing lower court decisions, the Supreme Court also upheld the legality of the Government's closure of three magazines in 1994.

The Government continued to exercise indirect control over and intimidation of the press. Criticism of the Government was tolerated, but critics of the President, senior officials, or powerful local interests risked harassment, arrest, or intimidation. Despite these problems and government pressure on the media in the wake of the July 27 events, observers considered the print media more open and outspoken than in recent years. The Government continued to impose some restrictions on freedom of religion and movement. Discrimination against women and the disabled and violence against women are endemic problems.

Security forces displayed improved discipline in responding to several incidents of unrest in Irian Jaya, where newly issued human rights guidelines were in effect, but brutality in handling unruly demonstrations in Pontianak and Ujung Pandang resulted in civilian deaths. In the July rioting in Jakarta, the police beat demonstrators and onlookers. Higher authorities punished increased numbers of police and military personnel, including officers, for infractions of the law or indiscipline. Punishment, however, usually failed to match the severity of the abuse.

The Government maintained its opposition to alternatives to the government-sponsored labor movement and to the development of a free trade union movement. Members of the principal unauthorized labor organization cited continued instances of harassment. Government pressure on this organization--widely viewed as an attempt to discredit or destroy it--has increased since the July 27 violence in Jakarta. In a move that has elicited considerable domestic and foreign criticism, the Government detained and brought subversion charges against the leader of this organization (the same man against whom the Supreme Court had reinstated a conviction it had earlier overturned) for alleged political activities. Abuses, including the use of child labor, mistreatment of labor, and inadequate remuneration continued. On the positive side, the Government raised the minimum wage again and, for the first time, allowed unions to collect and distribute their own dues.

In East Timor, still troubled by a low-level insurgency and a disaffected indigenous population that generally resents Indonesian rule and has inadequate opportunity to determine its own affairs, there were further instances of killings, disappearances, torture, and excessive use of force by the military and insurgents. Respected observers noted a decrease in serious incidents, but 1996 Nobel Peace Prize co-laureate Bishop Belo said that it would be a mistake to conclude that the human rights environment in East Timor was improving. No progress was made in accounting for the missing persons following the 1991 Dili incident or the others who disappeared in 1995-96. Troop levels remained unjustifiably

high. The Government granted limited access to the area to foreign journalists but banned travel by all foreign human rights NGO's except the ICRC. In several cases, the Indonesian military punished abuses by its personnel. The National Human Rights

Commission in a small, symbolically important step--whose practical effect remains to be seen--opened a branch office in Dili. Young disgruntled East Timorese mounted repeated intrusions into embassies in Jakarta seeking asylum and publicity for their cause.

In Irian Jaya, tribal resentment against government and private companies' policies viewed as heavy-handed and arbitrary remained. Real and perceived discrimination against native Irian people led to several outbreaks of violence and a strengthened military presence in Timika. Guerrilla terrorists seeking separation or autonomy for Irian Jaya took hostages in four incidents and murdered several of their captives.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killings

Historically, politically related extrajudicial killings have occurred most frequently in areas where separatist movements were active, such as East Timor, Aceh, and Irian Jaya. Security forces continued to employ harsh measures against separatist movements in East Timor and Irian Jaya. Although the Government claims that the "Aceh Merdeka" movement has been eliminated, Aceh is still officially listed as one of Indonesia's three "trouble spots" (along with East Timor and Irian Jaya), and the Government has issued public calls for the "rebels" to come home to their families. There are credible reports that the Aceh Merdeka movement still exists, but its activities are now underground. Security forces in East Timor killed two unarmed civilians in April in separate unrelated incidents. On April 25, near Baucau an unarmed East Timorese civilian allegedly attempted to escape questioning by security personnel and was killed when one of them fired what was described as a warning shot. A military officer was convicted of accidentally killing the victim. On April 28, in Dili a member of the security forces fired on and killed an unarmed civilian during an altercation caused because the victim was allegedly burning an Indonesian flag. In early August, a student was killed after quarreling with soldiers and them seeking to escape arrest.

Four soldiers received 1- to 3-year prison terms in February as a result of the killing of three civilians in Irian Jaya in the spring of 1995. These convictions resulted from reports by the National Human Rights Commission, the Catholic Church, and NGO's about the killings of 16 or more civilians in Irian Jaya between mid-1994 and mid-1995. However, these convictions resulted from one case only, and the military court addressed only charges of murder and did not address charges of rape of indigenous women. Five other cases of alleged human rights violations in Irian Jaya, cited in a September 1995 report by the National Human Rights Commission, have languished. Moreover, in the one prosecuted Irian Jaya case, many court documents were declared to be "state documents," precluding their release to the public.

The killing of unarmed civilians by security forces was not limited to the areas with active separatist movements. Military personnel abducted and allegedly tortured an unarmed civilian in West Kalimantan in April following a minor traffic accident. One civilian was killed and at least four were injured when military personnel fired upon unarmed civilians who attacked the local military headquarters in protest. Six military personnel were tried and convicted and received sentences ranging from 3 to 11 months for involvement in this incident. Six others, who had originally been named by the military authorities as suspects in the case, were punished for disciplinary infractions but not tried.

At least three civilian deaths occurred when security personnel in Ujung Pandang responded to student demonstrations in April. The Government acknowledged that three deaths occurred, claiming that the

students drowned in a river while fleeing security forces. However, photos of the three bodies of the dead students showed bruises and what may have been knife wounds. The investigation by the National Human Rights Commission confirmed the number of deaths but identified excesses by the troops. Some student groups asserted at the time that the number killed was higher. Twelve soldiers were subsequently charged in the case. Six low-ranking officers were tried and convicted in October receiving sentences of 90 to 105 days.

The Government assisted the forcible takeover of the Indonesian Democratic Party's (PDI) headquarters on July 27, and the harsh treatment of demonstrators later in the day by security forces, sparked Jakarta's most serious rioting in years. The Government acknowledged that four deaths occurred. A report released on October 12 by the National Human Rights Commission--which cited government intervention as a factor in the violence--put the casualties at 5 dead, 149 injured, and 23 missing. No members of the military or police have been held accountable by the Government in connection with this violence, which included police caning of individuals in a crowd who fell during a police charge. PDI witnesses testified in court that one person was killed during the government-backed assault against the party headquarters.

The police employed excessive and sometimes deadly force in apprehending suspects or coping with alleged criminals. In response to protests that the methods used were unjustifiably harsh and amounted to execution without trial, police generally claimed that the suspects were fleeing, resisting arrest, or threatening the police. Accurate statistics about the number of such cases are not available. In December police in Jakarta shot and killed a robbery suspect who they said was trying to escape from custody, and in November they did the same to a crime suspect in West Java. Also in November, a human rights organization charged that security forces, during a crackdown on street vendors, beat and kicked vendors, and that one of the vendors fell into a river and drowned while he was fleeing.

In the past higher authorities rarely punished the military or police for using excessive force. There were some indications that this situation was improving, although the action taken by the authorities is usually not commensurate with the gravity of the security force abuses.

Irian Jaya rebels, including some from the Free Papua Organization (OPM), abducted civilian hostages on four occasions in Irian Jaya. In two of these incidents hostages were killed by their abductors. A rescue attempt by Indonesian special forces May 15, succeeded in freeing nine hostages, but two others died of slash wounds inflicted by their abductors. Government troops killed eight of the abductors in a fight that also involved armed local villagers who supported the rebels. Earlier in this hostage taking, government forces sought to bring an end to the incident through ICRC mediation, which eventually failed due to bad faith on the part of the abductor leader, Kelly Kwalik. On September 18, Armed Forces of the Republic of Indonesia (ABRI) elements in pursuit of Irian Jaya rebels, who had taken 14 logging company employees hostage August 14, reported that two of the hostages had been found murdered. Government reports claimed the two had been tortured before they were killed by their abductors, though a knowledgeable source later shed doubt on this claim. The armed forces conducted operations to hunt down the OPM guerrillas. On at least two occasions OPM and government forces exchanged fire with reports of casualties. Access to the general area was restricted by the Government to prevent additional hostage-taking. There were unconfirmed claims from government critics that military campaigns to capture the hostage takers had resulted in civilian losses.

ABRI reportedly suffered casualties in East Timor during a clash with guerrillas in August. In ensuing military operations, five East Timorese reportedly were arrested. ABRI does not release its casualty statistics, but reliable reports indicate soldiers have been killed throughout the year. Guerrillas carried out attacks against immigrants and progovernment Timorese, and suspected informers that resulted in several deaths according to government and Indonesian press sources.

On December 24, in Dili an out-of-uniform police officer was beaten to death by a crowd when he was discovered to be carrying a pistol and a hand radio. Several other policemen including the Dili chief of police were injured, some seriously.

b. Disappearance

Following the July 27 violence and its aftermath, the National Human Rights Commission on October 12 released a report that listed 23 missing, 149 injured, and 5 dead, one of whom had been shot. The Commission's attention to the number of missing reflected persistent reports from human rights groups that people remain unaccounted for following the July 27 violence. In contrast, the Government did not acknowledge that any people were missing. Security forces in Indonesia sometimes held suspects incommunicado before acknowledging their detention. In certain cases, including after the July 27 violence, suspects were held for substantial periods of time before formal charges were brought; in some cases charges were not brought, and they were simply released. A respected international human rights NGO reported to the United Nations the disappearance of a Timorese man from Same, on or around May 13.

There were no new efforts by the Government to account for the missing and dead from the November 12, 1991 military shooting of civilians in Dili, East Timor. Of those still listed as missing in a report that the military gave to Human Rights Watch/Asia, no additional cases were resolved during the year. Knowledgeable observers continued to believe that most of the missing are dead and that members of the armed forces know where their bodies are located.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession. It establishes pretrial procedures to give suspects or their families the right to challenge the legality of an arrest or detention. In practice, however, legal protections are both inadequate and widely ignored, and security forces continued to employ torture and other forms of mistreatment, particularly in regions where there were active security concerns, such as Irian Jaya and East Timor. Police often resort to physical abuse, even in minor incidents.

In East Timor, military units regularly detain civilians for interrogation; often these civilians are mistreated for several days and then released. According to credible reports, in January security forces seized nine East Timorese from their homes in the Zumlai "Kecamatan" because they were suspected of cooperating with guerrilla forces. One of the detainees alleged that they had been beaten and mistreated, including being placed in a small underground hole. There were other reports that military and police units make frequent use of random torture against young men to maintain order in urban areas of East Timor. Credible sources reported that on November 27, following the stoning of police hut in Baucau, police entered a high school student dormitory and arbitrarily detained and severely beat two students.

In Irian Jaya, after an investigation, reliable sources concluded that all 130 persons detained during the March 18-20 demonstrations and rioting in Jayapura were mistreated and that some were tortured.

The Government continued to maintain an excessive military presence in East Timor. Taking advantage of high unemployment among young men ABRI recruited local East Timorese to constitute an East Timorese force subordinate to ABRI. Some East Timorese sources charged this force with human rights abuses as well. The Government, as it does elsewhere, also relied on bands of youths, organized and directed by the Government, to intimidate and harass its opponents in East Timor.

There were persistent assertions that some of the prisoners and detainees seized on July 27 and during the subsequent crackdown were subjected to mistreatment. This included both prisoners who were awaiting trial and detainees who were questioned and then released. Examples of the alleged mistreatment included kicking, beating, and electric shocks, notably while in the custody of military intelligence or the police. The ICRC and National Commission on Human Rights were unable to confirm these allegations. One case of alleged mistreatment involved five students who were said to have been beaten in Yogyakarta while in police detention in early August. Another case involved a raid on the headquarters of an Indonesian NGO. One of the staff members, the relative of a member of a small unauthorized political party that the authorities consider subversive (the People's Democratic

Party or PRD), was detained and subjected to beatings and electric shocks. Regarding the arrests of PRD members following July 27, Human Rights Watch/Asia stated that "a clear pattern has emerged where students are taken first to military intelligence for interrogation and often subjected to severe physical abuse, including electric shocks, for a period that can last up to a week." Lawyers for three of the PRD defendants publicly charged in October to the Human Rights Commission that their clients had been tortured.

In West Java, Tjetje Tadjudin died while in police custody in October. Initially the police claimed that his death was caused by respiratory problems. However, his examination at the hospital showed that injuries had been inflicted upon him, indicating that he had been tortured. The national police chief held the detective who had conducted the interrogation responsible and relieved him from duty. The police chief has promised to investigate the case thoroughly and take disciplinary action. Before Tjetje died, he had been "lent" to the military police for questioning because there were allegations that military personnel were involved in the initial crime. However, high level military officials insisted that the military had no role in his death.

A foreign human rights group reported that in January security forces detained 14 people in East Kalimantan. Several of the detainees were representing their village, Menemang in Kutai Regency, in a long-standing dispute with a company that had been clear-cutting land of disputed ownership in the area of the village. According to this report, the 14 were severely mistreated by the security forces, including being stripped, repeatedly beaten, kicked and pistol whipped, and some were burned with cigarettes.

In December in Cibentang, West Java, security forces reportedly clashed with villagers on two occasions. The villagers were resisting the installation of electric cables by a state-run company, which involved the expropriation of their land, because they believed they had been inadequately compensated. During one of the clashes, which reportedly occurred on December 26, the villagers claim that 200 security force personnel were involved, and five villagers alleged that they had been mistreated. The security forces claim that only 30 personnel were involved.

Prison conditions are harsh with violence among prisoners and mistreatment and extortion of inmates by guards common. In November a thirteen-year-old boy died of respiratory problems while serving a murder sentence. His lawyer publicly charged that the boy died because of poor conditions in the detention center, and this claim was supported publicly by some of the defendants in the July 27 violence case who were detained in that facility as well. The incidence of mistreatment by prison officials dropped sharply once a prisoner had been transferred from police or military intelligence (BIA) custody into the civilian prison system or into the custody of the Attorney General. Officials publicly condemned police brutality and harsh prison conditions and occasionally took disciplinary action, including transfer, dismissal, and trials leading to prison. Political prisoners were usually mixed with the general prison population, although in the Cipinang prison in Jakarta high-profile political prisoners were segregated.

The Government allowed the ICRC access on one occasion to those detained on antisubversion charges by the Attorney General following the July 27 violence. Authorities denied a visiting foreign official access to imprisoned East Timorese guerrilla leader Xanana Gusmao in Jakarta, although he was permitted to visit East Timor. In September the Attorney General's office invited a senior-level foreign government delegation to visit two individuals detained in connection with the July 27 violence.

d. Arbitrary Arrest, Detention, or Exile

The Criminal Procedures Code contains provisions against arbitrary arrest and detention, but it lacks adequate enforcement mechanisms and is routinely violated. The code specifies that prisoners have the right to notify their families and that warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. The law also requires that families of detainees be notified promptly. The law authorizes investigators to issue warrants to

assist in their investigations or if sufficient evidence exists that a crime has been committed. However, authorities sometimes made arrests without warrants.

The law presumes defendants innocent and permits bail. They or their families may also challenge the legality of their arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained. However, it is virtually impossible for detainees to invoke this procedure, or to receive compensation, after being released without charge. In both military and civilian courts, appeals based on claims of improper arrest and detention are rarely, if ever, accepted. The Criminal Procedures Code also contains specific limits on periods of pretrial detention and specifies when the courts must get involved to approve extensions, usually after 60 days. In addition, suspects charged under the 1963 Antisubversion Law are subject to special procedures outside the code. These give the Attorney General the authority to hold a suspect up to 1 year before trial. He may renew this 1-year period without limit. In the case of individuals held by the Attorney General's Office in connection with the July 27 violence in Jakarta, the Attorney General's Office waived authority under the Antisubversion Law to hold suspects indefinitely, and sought judicial approval of continued detention as provided for under criminal law.

The authorities routinely approve extensions of periods of detention. In areas where active guerrilla movements exist, such as East Timor and Irian Jaya, there are instances of people being detained without warrants, charges, or court proceedings. This was also the case following the July 27 violence in Jakarta. Bail is rarely granted, especially in political cases. The authorities frequently prevent access to defense counsel while suspects are being investigated and make it difficult or impossible for detainees to get legal assistance from voluntary legal defense organizations. Special laws on corruption, economic crimes, and narcotics do not come under the code's protections.

The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates outside the legal code and has wide discretion to detain and interrogate persons thought to threaten national security. Despite the existence of this agency, ABRI began discussing publicly in September the need for a new internal security act to give the Government greater power to suppress dissent prior to the 1997 parliamentary elections. There is no reliable data on which to quantify the number of arbitrary arrests or detentions without trial, particularly in East Timor and Irian Jaya.

In the period March 10-13, Irianese with grievances against the Government and the policies and practices of a foreign mining company rioted in the Timika-Tembagapura area. There was also rioting in a suburb of Jayapura March 18-19. Fatalities were reported in both instances though not, apparently, at the hands of security forces. Approximately 7 persons were detained in the wake of the Timika-Tembagapura rioting while over 100 reportedly were detained in the wake of the Jayapura rioting.

According to credible reports, numerous individuals were seized from their homes in Dili and arbitrarily detained in February. There were similar reports of persons being arbitrarily detained in Baucau in November, and in Viqueque in December. According to a report from a foreign human rights group, four Irianese were detained in March due to a peaceful protest they carried out in Jakarta. Without being informed of the charges, they were held incommunicado for over a week and then released. Documents confiscated from one of these individuals were not returned.

According to the Government, 206 people were arrested on the weekend f July 27 in connection with the violent, government-assisted takeover of PDI headquarters and the ensuing disturbances. Scores of persons were detained by the Government on July 27 for refusing to shut down a "free speech forum" organized by supporters of ousted PDI leader Megawati Sukarnoputri and for continuing to occupy the PDI headquarters. Plain clothes police clandestinely tape recorded speeches given at the forum that were generally critical of the Government. On November 27 the central Jakarta district court ordered the release of 124 of that group who had been charged with assault and resisting orders. Judges acquitted 9 of the accused and sentenced the other 115 to time already served. Assault charges were dropped. Many of those convicted plan to appeal. In addition, the leader of an unsanctioned labor union, Muchtar Pakpahan, and 12 members of the People's Democratic Party (PRD), including its

leader Budiman Sudjatmiko, had been arrested. The trials of nine of the PRD members for subversion began in Jakarta in December, as did the trial of Pakpahan who was also charged with subversion. Outside of Jakarta there were numerous arrests and detentions, some temporary, of those suspected of having a connection to the PRD or responsibility for the July 27 riots. For example, five students were detained in Yogyakarta in early August. At least two PRD members were detained in Semarang in September, and held incommunicado for at least 2 weeks. In a raid conducted against a Jakarta NGO, detaining forces failed to provide identification or misidentified themselves. In response to instances of illegal military detention of suspects, the National Human Rights Commission issued a public caution that only police were empowered to carry out arrests.

In February, 15 women reportedly protested the 5-month detention of their husbands and sons to the local Lampung legislature. They claimed that their family members had not received due process, that one of the detainees had been killed in prison, and that another had been severely injured.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution stipulates the independence of the judiciary, but in practice the judiciary is subordinated to the executive and the military. In many cases procedural protections, including those against coerced confessions, particularly those coerced by the police and military intelligence (BIA), are inadequate to ensure a fair trial. Several court challenges to the Government's transparent manipulation of the PDI leadership structure have been dismissed, results that were widely expected given the judiciary's subservience to the executive and military on key issues.

A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems of justice. The Supreme Court does not consider factual aspects of a case, only the lower courts' application of law. The Supreme Court theoretically stands coequal with the executive and legislative branches, but it does not have the right of judicial review over laws passed by Parliament. The Supreme Court has not yet exercised its authority (held since 1985) to review ministerial decrees and regulations. In 1993 Chief Justice Purwoto Gandasubrata laid out procedures for limited judicial review. Judges are civil servants employed by the executive branch, which controls their assignments, pay, and promotion. They are subject to considerable pressure from military and other governmental authorities that often determines the outcome of a case. The Supreme Courts's unprecedented reversal of its own 1995 decision freeing labor leader Muchtar Pakpahan from prison throws its lack of independence into sharp relief. Corruption is a common feature of the legal system and the payment of bribes can influence prosecution, conviction, and sentencing in civil and criminal cases. A Supreme Court justice who alleged widespread corruption and collusion within the court system was the subject of efforts by the Chief Justice to secure his dismissal from the court. The Government did not act on this recommendation.

A panel of judges conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment. Initial judgments are rarely reversed in the appeals process, although sentences can be increased or reduced. Both the defense and the prosecution may appeal.

Defendants have the right to confront witnesses and to produce witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court. In such cases, sworn affidavits may be introduced. However, the Criminal Procedures Code does not provide for witnesses' immunity or for defense power of subpoena. As a result, witnesses are sometimes too afraid of retribution to testify against the authorities. The courts commonly allow forced confessions and limit the presentation of defense evidence. Defendants do not have the right to remain silent and can be compelled to testify against themselves. The Criminal Procedures Code gives defendants the right to an attorney from the moment of their arrest, but not during the prearrest investigation period, which may involve prolonged detention. Persons summoned

to appear as witnesses in investigations do not have the right to be assisted by lawyers even though information developed in the course of rendering testimony can subsequently become the basis of an investigation of the witness. The law requires that a lawyer be appointed in capital cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the defendant desires an attorney and is indigent. In theory, destitute defendants may obtain private legal help, such as that provided by the Legal Aid Institute (LBH). In practice, however, defendants are often persuaded not to hire an attorney, or access to an attorney of their choice is impeded.

Signs of nascent judicial independence were less evident in 1996. In June the Supreme Court overturned rulings by the lower courts and maintained the ban on the periodical Tempo and two other publications. In 1995 an administrative court in Jakarta had found in favor of the plaintiffs, employees of Tempo, in their civil suit against the Minister of Information for revoking Tempo's publication license in 1993. The High Court unanimously upheld this decision in November 1995, stating that the ministerial regulations permitting publications to be banned were in conflict with press freedoms contained in the Constitution. The Government appealed the High Court ruling to the Supreme Court, which found in favor of the Government. In November the Supreme Court revealed that it had reversed its earlier decision to overturn the 1994 verdict against independent labor leader Muchtar Pakpahan. This reversal prompted broad criticism by legal scholars and by one highly regarded Supreme Court justice who had chaired the panel which overturned the 1994 decision.

The Antisubversion Law, which carries a maximum penalty of death (which has never been invoked in recent years), makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which could disseminate feelings of hostility or arouse hostility, disturbances, or anxiety among the population. The excessively vague language of this law makes it possible to prosecute people merely for peaceful expression of views contrary to those of the Government. Independent labor leader Muchtar Pakpahan and PRD members were charged with subversion in trials that opened in December.

Various sources estimate that several hundred people are serving sentences for subversion, including members of the banned Communist Party of Indonesia (PKI), Muslim militants, and those convicted of subversion in Irian Jaya, Aceh, and East Timor. Following the July 27 violence, the Government in December charged 10 individuals under the Antisubversion Law. Scores, and possibly hundreds, more were believed to be serving sentences under the Hate-Sowing or Sedition laws. Some of these persons advocated or employed violence, but others are political prisoners who were convicted for attempting to exercise such universally recognized human rights as freedom of speech or association, or who were convicted in manifestly unfair trials.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption. However, security agencies regularly made forced or surreptitious entries. A Jakarta NGO was raided by security personnel who misidentified themselves as police. The intruders reportedly tortured one staff member and confiscated documents (see Section 1.c.). The NGO has not been able to regain the confiscated documents because the intruding officials neither presented a warrant nor properly identified themselves. Security forces also engaged in surveillance of persons and residences and selective monitoring of local and international telephone calls without legal restraint.

Following the July 27 violence, the authorities charged that a small, unauthorized, leftist-oriented group, the Democratic People's Party (PRD) had incited the violence and was a Communist organization bent on forcibly overthrowing the Government. They launched a nationwide search for PRD members and promised to capture the leaders. PRD leader Budiman Sudjatmiko has been detained since early August. The Government intimidated political activists through a campaign of police questioning. Ousted PDI Chair Megawati Sukarnoputri was questioned several times as a witness in several cases, and prominent human rights, environmental, labor, and democracy activists faced similar treatment. Soerjadi, who replaced Megawati as PDI chair, was also questioned. The

questioning sessions by the police or Attorney General's Office were lengthy, lasting a full day in some cases. Most of those questioned were not named as suspects, but the Government stated publicly that witnesses could become suspects. Following up on this threat, in late September, the Government called a PDI legislator in for questioning as a suspect, claiming that he had "insulted the President" at the "free speech forum."

Government security officials monitor the movements and activities of former members of the Communist Party of Indonesia (PKI) and its front organizations, especially persons the Government believes were involved in the abortive 1965 Communist-backed coup. These persons and their relatives sometimes are subject to surveillance, required check-ins, periodic indoctrination, and restrictions on travel outside their city of residence. One of the methods the Government has used to monitor the activities of these people has been to require that the initials "E.T." ("Ex-Tapol" or political prisoner) be stamped in their identification cards. This allows the government and prospective employers to identify former Communist Party members, and subjects them to official and unofficial discrimination. Although the requirement that E.T be stamped in identification cards is being phased out, many individuals still carry such cards.

In recent years the Government significantly reduced its transmigration program, which moves large numbers of people from overpopulated islands to more isolated and less developed ones. Human rights monitors say that the program violates the rights of indigenous people and dupes some transmigrants into leaving their home villages without any means of return. Transmigrants and migrants outside the government transmigration program received indirect government support in the form of developmental assistance programs and contracts with ABRI or local government officials. This practice, particularly in East Timor and Irian Jaya, led to resentment among indigenous populations. The resulting communal tensions led to rioting in both locations.

The Government prohibits the import of Chinese-language publications (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the 1945 Constitution and the 1982 Press Law provide for freedom of the press, the Government continued to restrict press freedom in practice. Following the revocation of the publishing licenses of three well-known newsmagazines in 1994, in June the Supreme Court overturned lower court rulings and upheld the 1994 ban on Tempo magazine.

The Government uses the issuance of publishing licenses under a 1984 ministerial decree to control the press. Other means of control include regulation of the amount of advertising permitted and of the number of pages allowed in newspapers. In sensitive areas, the authorities continued to provide guidance to local journalists and editors on what they should print, although there were many cases where such guidance was ignored.

Vigorous debate on a number of sensitive topics, such as corruption, the role of the first family in business, and lack of government fiscal accountability, continued, particularly in the English-language press. Major Indonesian-language newspapers were more cautious in covering controversial subjects.

While public dialogue is freer than it was a number of years ago the Government continues to impose restrictions on free speech. For example, the violent expulsion of Megawati Sukarnoputri supporters from the PDI headquarters in Jakarta on July 27 effectively shut down the "free speech forum" that had been held at the headquarters for several weeks. In May a Jakarta district court supported the Government's position when it convicted former Member of Parliament Sri Bintang Pamungkas of insulting President Soeharto during an April 1995 lecture in Berlin. He was sentenced to 2 years and 10 months, but has not yet started serving his sentence pending appeal.

Nobel Prize co-laureate Bishop Belo was subjected to intense government pressure to retract published remarks critical of some government and military actions in East Timor. He eventually did so, after being the target of government-organized demonstrations when he travelled to Jakarta and issued a partial repudiation of some parts of the article in which he had been quoted. A number of students were detained after a November 25 demonstration in Dili, apparently for displaying anti-Soeharto banners; all but one were eventually released. A journalist in Yogyakarta was attacked in his home by unidentified intruders, possibly in connection with articles he had written that were critical of local government officials' actions in land cases. He died several days later as a result of the injuries sustained during the attack. The investigation into the case was taken out of the hands of the local police several weeks after the incident. The police arrested a suspect in the crime, but the Human Rights Commission expressed concerns about the process in which the suspect was detained and there was widespread public doubt as to whether the right person had been apprehended. The suspect was released from custody in December, but remains under suspicion.

In addition, there were several cases of violent attacks on, and intimidation of the news media during and after the PDI related disturbances in Jakarta. During a June 20 clash between PDI demonstrators and security forces, an employee of a foreign news organization was hit by security personnel, and there were reports that other foreign and local news personnel suffered injuries that day as well. During the July 27 incident, at least three foreign journalists had minor injuries inflicted by the police. At least two local journalists suffered police beatings that required hospitalization. Two journalists in Surabaya were reportedly detained during a protest against the takeover of PDI headquarters. Although they identified themselves as journalists, they were beaten while in custody. A group of Western journalists was threatened with a drawn pistol by a police officer while witnessing the violent breakup of a PDI demonstration by security forces on July 28. On October 28, security forces raided a printing house used to produce the October edition of the Alliance of Independent Journalists' (AJI) unlicensed magazine Suara Independen. They seized 5,000 copies of the magazine and arrested a print shop technician and an AJI activist who was picking up the magazine. The two were charged with distributing printed material defaming the President, and if convicted could each be imprisoned for 6 years.

The electronic media remained more cautious in their coverage of the Government than the print media. The Government operates a nationwide television network with 12 regional stations. Private commercial television companies, many with ownership by, or management ties to, the President's family, continued to expand. All are required to broadcast government-produced news, but many also produce public affairs style programming with news content.

Over 600 private radio broadcasting companies exist in addition to the Government's national radio network. They all were required to belong to the government-sponsored Association of Private Radio Stations (PRSSNI) to receive a broadcasting license. The government radio station produces the program "National News," which is the only news permitted by law to be broadcast in Indonesia. It is relayed throughout the country by private stations and 49 regional affiliates of the Government station. By law, the private radio stations may produce only "light" news, such as human interest stories, and may not discuss politics. In practice, however, many broadcast interviews and foreign news as well.

Foreign television and radio broadcasts were readily accessible. Satellite dishes have proliferated throughout the country, and there was access to the Internet. The Government made no effort to restrict access to this programming, and has proclaimed an "open skies" policy. Some signals have been scrambled by broadcasters for commercial reasons.

The Government closely regulates access to Indonesia, particularly to certain areas of the country, by visiting and resident foreign correspondents. It occasionally reminds the latter of its prerogative to deny requests for visa extensions. Numerous foreign journalists were still in Jakarta on July 27, following the Association of Southeast Asian Nations (ASEAN) meetings the week before, and were able to cover the incident for an international audience. The Government requires a permit for the importation of foreign publications and video tapes, which must be reviewed by government censors. Importers

sometimes avoided foreign materials critical of the Government or dealing with topics considered sensitive, such as human rights. Foreign publications are widely available.

Publishers sometimes refused to accept manuscripts dealing with controversial issues. Most books by the prominent Indonesian novelist and former political prisoner Pramoedya Ananta Toer are banned. The Attorney General's Office reported publicly that two publications were banned in 1996.

Special permission is necessary for foreign journalists to travel to East Timor, Aceh, and Irian Jaya. With a few exceptions (including permission for journalists to accompany a diplomatic delegation in April, to cover President Soeharto's visit in October, and to attend a press conference by Bishop Belo in November) press access to East Timor was restricted. A number of journalists repeatedly requested permission to go to East Timor without success.

While the law provides for academic freedom, constraints exist on the activities of scholars. Political activity and discussions at universities, while no longer formally banned, remained constrained. Some scholars displayed caution in producing or including in lectures and class discussions materials that might provoke government displeasure.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association; however, the Government places significant controls on the exercise of these rights. Until 1995 public meetings of five or more persons, as well as academic or other seminars and marches and demonstrations, required permits from the police and several government agencies. While obtaining such approval was usually routine, the authorities occasionally arbitrarily and inconsistently withheld permission or broke up peaceful gatherings for which no permit had been obtained. The Government promulgated regulations in December 1995 that eliminated the permit requirements for some types of public meetings. A requirement to notify the police remained. Some meetings continued to be prevented or broken up. Meetings by the Indonesian Prosperity Union (SBSI) were broken-up in October and December, despite the fact that it had given the police notification. Various NGO's had difficulty obtaining approval to hold meetings following the July 27 violence.

The 1985 Social Organizations Law (ORMAS) requires the adherence of all organizations, including recognized religions and associations, to the official ideology of Pancasila. This provision, which limits political activity, is widely understood as designed to inhibit activities of groups seeking to engage freely in democratic political competition, make Indonesia an Islamic state, revive communism, or return the country to a situation of partisan ideological division. This law empowers the Government to disband any organization it believes to be acting against Pancasila and requires prior government approval for any organization's acceptance of funds from foreign donors, thereby hindering the work of many local humanitarian organizations. Nevertheless, a significant number of organizations, including the independent labor organization Serikat Buruh Sejahtera Indonesia (SBSI), continued to be active without official recognition under this law. Sri Bintang Pamungkas established the Democratic Union Party (PUDI) in May. As only three political parties are permitted in Indonesia, it was not recognized by the Government but was not banned. However, after the July 27 violence, the Government cited the unauthorized PRD as a subversive, neo-Communist organization and has sought to arrest its membership (see Section 1.f.).

In the past few years, NGO's have proliferated in such fields as human rights, the environment, development, and consumer protection. Until 1996 the Government gave them rather wide latitude to pursue their aims, including public criticism of government policies and in some cases lawsuits against the Government. Following the July 27 violence, the Government moved to monitor activities by certain NGO's and activists more closely, which had an intimidating effect. In November high level government officials threatened publicly that legal action could be taken against selected NGO's deemed to be "trouble-making." Even before July, there were signs of government concern over political activism. The establishment of the Independent Election Monitoring Committee (KIPP) by political activists in March met with a mixed response from the Government and sporadic harassment.

KIPP's national leader was called in for questioning after the July 27 violence. On April 21, the Legal Aid Foundation's (LBH) Medan office was stoned by unidentified individuals during a gathering of local activists preparing to form a local chapter of KIPP. Several police officers were nearby but took no action to stop the attack. Early the next morning, the LBH office was burned and completely destroyed.

c. Freedom of Religion

The Constitution provides for religious freedom and belief in one Supreme God. The Government recognizes Islam, Catholicism, Protestantism, Buddhism, and Hinduism, and permits the practice of the mystical, traditional beliefs of "Aliran Kepercayaan." Although the population is over 85 percent Muslim, the practice and teachings of the other recognized religions are generally respected, and the Government actively promotes mutual tolerance and harmony among them. However, some restrictions on certain types of religious activity, including unrecognized religions, exist.

Because the first tenet of Pancasila is belief in one Supreme God, atheism is forbidden. The legal requirement to adhere to Pancasila extends to all religious and secular organizations. The Government strongly opposes Muslim groups that advocate establishing an Islamic state or acknowledging only Islamic law. The Government banned some religious sects including Jehovah's Witnesses, Baha'i, and in some provinces the messianic Islamic sect Darul Arqam. The Government closely monitors Islamic sects considered in danger of deviating from orthodox tenets, and in the past has on occasion dissolved such groups.

High-level officials continued to make public statements and emphasize by example the importance of respect for religious diversity in the country. Lower-level officials, however, were frequently alleged to be reluctant to facilitate and protect the rights of religious minorities.

The law allows conversion between faiths, and such conversions occur. The Government views proselytizing by recognized religions in areas heavily dominated by another recognized religion as potentially disruptive and discourages it. Foreign missionary activities are relatively unimpeded, although in East Timor and occasionally elsewhere missionaries have experienced difficulties and delays in renewing residence permits, and visas allowing the entrance of new foreign clergy are difficult to obtain. Laws and decrees from the 1970's limit the number of years that foreign missionaries can spend in Indonesia, with some extensions granted in remote areas like Irian Jaya. Foreign missionary work is subject to the funding stipulations of the ORMAS Law. Citizens practicing the recognized religions maintain active links with coreligionists inside and outside the country and travel abroad for religious gatherings.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Although in 1993 the Government drastically reduced the number of people barred either from entering or departing Indonesia from a publicly announced figure of 8,897 "blacklisted" people to a few hundred, such restrictions still exist. The Government also restricts movement by citizens and foreigners to and within parts of the country. In addition, it requires permits to seek work in a new location in certain areas, primarily to control further population movement to crowded cities. Special permits are required to visit certain parts of Irian Jaya. The authorities require former political detainees, including those associated with the abortive 1965 coup, to give notice of their movements and to have official permission to change their place of residence (see Section 1.f.). Following the July 27 incident, a travel ban was imposed on Budiman Sudjatmiko and other PRD members sought by government authorities.

In past years, the Government offered first asylum to over 125,000 Indochinese boat people. In September Indonesia's Galang Island camp was closed as the last remaining asylum seekers were repatriated. There remain, however, some 18 persons awaiting a third country resettlement opportunity. While providing first asylum for Vietnamese and Cambodian boat people, the Government has not formulated a policy regarding asylum seekers of other nationalities. In 1996 the United Nations High

Commissioner for Refugees (UNHCR) assisted 21 non-Indochinese who were recognized as refugees under the UNHCR mandate. The Government has refused to grant these refugees asylum or legal permission to stay in Indonesia. Some have been accepted for resettlement in third countries, while others have been held in detention or allowed to stay in Indonesia without legal status. There were no reports of forced return of persons to a country where they feared persecution.

A number of East Timorese asylum seekers who took refuge in various embassies in Jakarta were permitted to emigrate after negotiations.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their government through democratic means. In June the Government engineered the ouster of the popular leader of the Indonesian Democratic Party (PDI)--Megawati Sukarnoputri, who had become the subject of public speculation as a possible candidate for president in 1998--and the subsequent violent removal of her supporters from PDI headquarters in July. So far there has never been an electoral challenge to President Soeharto.

The 1,000-member People's Consultative Assembly (MPR), is constitutionally the highest authority of the State. It meets every 5 years to elect the President and Vice President and to set the broad outlines of state policy. The MPR is effectively controlled by President Soeharto and his government, therefore, the election of any candidate other than one of his choosing is essentially impossible. Five hundred members of the MPR come from the National Parliament (DPR), 425 of whose members will be elected in elections in 1997 (up from 400 elected members in 1992). The remaining 75 members will be military appointees. In 1993 the MPR elected Soeharto to his sixth uncontested 5-year term as President. Legally the President is constitutionally subordinate to the Parliament, but actually he and a small group of associates exercise governmental authority.

Under a doctrine known as dual function, the military assumes a significant sociopolitical as well as a security role. Members of the military were allotted 100 unelected seats in the DPR, in partial compensation for not being permitted to vote. In 1995 the Government legislated a reduction in the number of these seats from 100 to 75, or 15 percent of a total of 500, effective in 1997. This reduction has already taken place through attrition. The military will continue to hold an unelected 20 percent of the seats in provincial and district parliaments, and to occupy numerous key positions in the administration. The other 85 percent of national and 80 percent of local parliamentary seats are filled through elections held every 5 years. All adult citizens, except active duty members of the armed forces, convicted criminals serving prison sentences, and some 36,000 former members of the Communist Party, are eligible to vote. Voters choose by secret ballot between the three government-approved political organizations, which field candidate lists in each electoral district. Those lists must be screened by BAKORSTANAS, which determines whether candidates were involved in the abortive 1965 Communist coup or pose other broadly defined security risks. Critics charge that these screenings are unconstitutional, since there is no way to appeal the results, and note that they can be used to eliminate critics of the Government from Parliament.

Strict rules establish the length of political campaigns, access to electronic media, schedules for public appearances, and the political symbols that can be used. The Government formally permits only three political organizations to exist and contest elections (see Section 2.b.). The largest and most important of these is GOLKAR, a government-controlled organization of diverse functional groups that won 68 percent of the seats in the 1992 elections. The President strongly influences the selection of the leaders of GOLKAR. The other two small political organizations, the United Development Party (PPP) and the Indonesian Democratic Party (PDI), gained 17 and 15 percent respectively of the remaining vote. The two smaller parties are not permitted to maintain party offices below the district level, placing them at a disadvantage to the government-supported GOLKAR. The law requires all three political organizations to embrace Pancasila, and none of the organizations is considered an opposition party. (After the July violence in Jakarta, the Government cracked down on the PRD, a small leftist organization that it charged was an unauthorized political party bent on subverting the Government (see Section 1.f.).

Government authorities closely scrutinize and often guide the activities of the three political organizations, as evidenced by the blatant intervention in the internal affairs of the PDI in 1996. Members of the DPR and the provincial assemblies may be recalled from office by party leaders.

GOLKAR maintains close institutional links with the armed forces and KORPRI, the association to which all civil servants automatically belong. Civil servants may join any of the political parties with official permission, but most are members of GOLKAR. Former members of the PKI and some other banned parties may not run for office or be active politically. The DPR considers bills presented to it by government departments and agencies but does not draft laws on its own, although it has the constitutional authority to do so. The DPR does make technical, and occasionally substantive alterations to bills it reviews. In practice, it remains clearly subordinate to the executive branch, but recently it has become more active in scrutinizing government policy, and exercising oversight of government budgetary expenditures and program implementation through hearings at which members of the Cabinet, military commanders, and other high officials are asked to testify. The Speaker of the DPR has publicly called for a larger role for the body. The DPR has also become increasingly a focal point of appeals and petitions from students, workers, displaced farmers, and others protesting alleged human rights abuses and airing other grievances. It rarely is the source of any relief to petitioners other than providing a channel through which their complaints can be aired.

While there are no legal restrictions on the role of women in politics, they are underrepresented in government. About 11 percent (55 of 500) DPR members are women; 2 women are cabinet members. During the selection process of candidates for Parliament, discussion of the underrepresentation of women has arisen. The State Minister for Women's Roles complained publicly that GOLKAR was nominating fewer women than had been promised.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic human rights organizations and other NGO's have been subjected to a systematic government crackdown since the July 27 violence at PDI headquarters. The Government has used the violence associated with the July 27 incident as a pretext to intimidate, arrest, and otherwise pressure human rights and other activists into limiting their activities. NGO's faced government harassment including police raids on their offices, surveillance by police or military intelligence, interrogations at police stations, or cancellations of private meetings; in some cases high level government officials threatened that legal action would be taken against them because they were considered to be trouble-making. While no NGO's had been banned or subject to formal legal action as of the end of the year, the harassment and intimidation continued. Moreover, some small NGO's were effectively forced to close their doors after July 27.

The Government has resisted a proposal by the United Nations Human Rights Commission to open an office in Jakarta that would have the capacity to monitor human rights developments. The Government had indicated a willingness to permit an office to open in Jakarta only if its mission was restricted to technical operations such as conducting seminars without any monitoring function.

The Government considers outside investigations or foreign-based criticism of alleged human rights violations to be interference in its internal affairs. It emphasizes its belief that linking foreign assistance or other sanctions related to its human rights observance constitutes interference in its internal affairs and is therefore unacceptable.

Sources in Irian Jaya claim that the Government has obstructed NGO and church efforts to investigate ABRI actions in the Mapenduma area, where hostage taking had occurred early in the year, which, according to unconfirmed reports from government critics, had resulted in losses among the civilian population. The Government claims that it has limited access to the area for all nonresidents as a security measure.

The ICRC continued to operate in East Timor, Irian Jaya, and Aceh, and to visit prisoners convicted of participation in the abortive, Communist-backed coup in 1965, convicted Muslim extremists, and East Timorese prisoners. The Government also permitted the ICRC to visit 10 detainees in the custody of the Attorney General's Office who had been arrested in connection with the July 27 violence in Jakarta. The Government also invited senior foreign government officials to visit with two of these detainees on one occasion.

While receiving support for its work from the Government in principle, the ICRC periodically faced difficulty in implementing its humanitarian program in East Timor. The ICRC no longer maintains an office in Irian Jaya, but it visits that province from Jakarta several times a year. The ICRC was deeply involved in the attempt to negotiate an end to the January-May hostage crisis in Irian Jaya, working in close collaboration with the Government to achieve a nonviolent end to that crisis. The ICRC also visits Aceh regularly, but the Government has not approved the ICRC's request to open an office there. Travel to East Timor by foreign human rights NGO's has not been approved. Domestic human rights organizations are able to visit East Timor.

The Government-appointed National Human Rights Commission, in its third year of operation, continued to be active in examining reported human rights violations and continued to show independence and a willingness to criticize government actions and policies. It investigated the April deaths of students in Ujung Pandang, issued a forthright statement in June condemning the Government's interference in internal PDI affairs, and launched an investigation of the July 27 incident, which was widely considered to be its greatest challenge yet. Its report on the July 27 incident, released October 12, found the Government and its security apparatus partially responsible for the violence. The Government has not responded to the Commission's report or taken any steps to punish those government and government-backed personnel responsible for the violence.

Lacking enforcement powers, the Commission attempts to work within the system, sending teams where necessary to inquire into possible human rights problems and employing persuasion, publicity, and moral authority to highlight abuses, make recommendations for legal and regulatory changes, and encourage corrective action. The Commission now occupies its own permanent facilities, but still continues to have very limited staff support.

Although the Government appointed the original Commission members, the Commission fills vacancies in its ranks independently by internal election. A new chairman and four new members, replacing those who had died while in office, were elected in the fall.

The Commission opened an East Timor office in June. This was widely regarded as a positive step in the ongoing effort to address and resolve human rights abuses in East Timor. However, many observers also had doubts about the potential effectiveness of the East Timor office because of its location next to the local military headquarters, its leadership by a non-Timorese, its reliance on government-provided staffing, and the fact that it could only receive complaints and send them back to Jakarta, but not take action itself. The initial flow of citizens to the facility tended to comprise people who did not make complaints regarding the Government, the military, or local authorities, conveying the impression that the local population were reluctant to approach the facility. As of year's end, the office had limited itself to dealing only with nonpolitical cases and therefore had made little impact with regard to the more serious human rights problems in East Timor. The Commission is trying to address some of the problems that have impeded the effectiveness of the office.

Findings issued by the Commission that were critical of the Government or disagreed with the government perspective, notably with regard to the interim report on the July 27 rioting in Jakarta, have drawn thinly veiled government rebukes and warnings. Moreover, the Government has tended to ignore some commission findings or, in some instances, has moved lethargically in reaction to them. The Government has not responded to the Commission's final report on the July 27 violence issued October 12. Of six cases of ABRI abuse of indigenous people in Irian Jaya identified by the Commission in September 1995, only one had led to court action by year's end.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution does not explicitly forbid discrimination based on gender, race, disability, language, or social status. However, the Constitution stipulates equal rights and obligations for all citizens, both native and naturalized. Chapter 4 of the 1993 Guidelines of State Policy (legal statutes adopted by the People's Consultative Assembly) explicitly states that women have the same rights, obligations, and opportunities as men. However, marriage law dictates that men are the head of the family. The Constitution grants citizens the right to practice their individual religion and beliefs; however, the Government imposes some restrictions on religious activity.

Women

Violence against women remains poorly documented. However, the Government has acknowledged the problem of domestic violence in society, which some say has been aggravated by social changes brought about by rapid urbanization. Longstanding traditional beliefs that the husband may "teach" or "control" the wife through several means, including violence, also contribute to the problem. Rape by a husband of a wife is not a crime, although women's groups are trying to change this law. While police could bring assault charges against a husband for beating his wife, due to social attitudes they are unlikely to do so. Cultural norms dictate that problems between husband and wife are private problems, and violence against women in the home is rarely reported. The Government provides some counseling, and several private organizations exist to assist women. Many of these organizations focus on reuniting the family rather than on providing protection to the women involved. Many women rely on extended family systems for assistance in cases of domestic violence. In 1995 the first drop-in center for battered women was founded in Jakarta by an NGO. Another drop-in center was founded in Jakarta by the official, government-sponsored National Women's Organization (KOWANI). There is one crisis center for women in Yogyakarta run by an NGO. There are NGO plans for training volunteer counselors to work at a women's crisis center/shelter, which is also to have a hot line, which is expected to open as soon as funds are available.

Rape is a punishable offense in Indonesia. Men have been arrested and sentenced for rape and attempted rape although reliable statistics are unavailable. Mob violence against accused rapists is frequently reported. Women's rights activists believe that rape is grossly underreported owing to the social stigma attached to the victim. Some legal experts state that if a woman does not go immediately to the hospital for a physical examination that produces physical evidence of rape, she will not be able to bring charges. A witness is also required in order to bring charges, and only in rare cases is there a witness. Some women reportedly fail to report rape to police, because the police do not take their allegations seriously.

There is no sexual harassment law, only an indecent behavior law. Sexual harassment charges, however, can damage a civil service career. The current law reportedly covers physical abuse only, and requires two witnesses. Women job applicants and workers have complained of being sexually victimized by foremen and factory owners.

According to the Constitution, women are equal to and have the same rights, obligations, and opportunities as men. However, in practice women face some legal discrimination. Marriage law, based on Islamic law, allows men to have up to four wives if the first wife is unable "to fulfill her tasks as a wife." Permission of the first wife is required, but reportedly most women cannot refuse. A civil servant who wishes to marry a second woman also must have the consent of his supervisor. To set an example, the President has forbidden cabinet officials and senior military officers from having second wives. In divorce cases women often bear a heavier evidentiary burden than men, especially in the Islamic-based family court system. Alimony is rarely received by divorced women, and there is no enforcement of alimony payment. By law, a woman cannot pass citizenship to her child, born inside or outside Indonesia, if the father of the child is not a citizen. The child must obtain residency visas to remain in Indonesia, and can only apply for citizenship when he or she reaches the age of 18. A case in which the court ordered the deportation of a 4-year-old child of an Indonesian woman and non-Indonesian man attracted considerable media attention during the year.

Although some women enjoy a high degree of economic and social freedom and occupy important mid-level positions in both the public and private sectors, the majority of women do not experience such social and economic freedoms and are often disproportionately represented at the lower end of the socioeconomic scale. Although women constitute one-quarter of the civil service, they occupy only a small fraction of the service's top posts. Income disparity between men and women diminishes significantly with greater educational attainment.

Female workers in manufacturing generally receive lower wages than men. Many female factory workers are hired as day laborers instead of as full-time permanent employees, and companies are not required to provide benefits, such as maternity leave, to day laborers. Female activists report that a growing trend in manufacturing is the hiring of women to do work in their homes for less than minimum wage. Unemployment rates for women are approximately 50 percent higher than for men. Women are often not given the extra benefits and salary that are their due when they are the head of household, and in some cases do not receive employment benefits for their husband and children, such as medical insurance and income tax deductions.

Despite laws that provide women with a 3-month maternity leave, the Government has conceded that pregnant women are often dismissed or are replaced while on leave. Some companies require that women sign statements that they will not become pregnant. The employment law mandates 2 days of menstrual leave per month for women.

Women disproportionately experience illiteracy, poor health, and inadequate nutrition. The President has called for expanded efforts to reduce the maternal mortality rate, which at 425 per 100,000 live births is very high. The Government, with the help of international donors, launched a major effort in December to reduce the maternal mortality rate. Women's educational indicators have improved in the last decade. For example, the number of girls graduating from high school tripled from 1980 to 1990. A number of voluntary private groups work actively to advance women's legal, economic, social, and political rights and claim some success in gaining official cognizance of women's concerns.

Women's NGO's have felt pressure from increased government scrutiny of all NGO's in the wake of the July 27 violence in Jakarta.

Children

The Government is committed to children's rights and welfare, but is hampered by a lack of resources that prevents it from translating this commitment into practice. A 1979 law on children's welfare defines the responsibility of the State and parents to nurture and protect children. However, implementing regulations have never been developed, and the law's provisions have yet to go into effect. The Government has made particular efforts to improve primary education and maternity services. Although primary education is in principle universal, the United Nations Children's Fund (UNICEF) estimates that more than 1 million children drop out of primary school every year due mainly to the cost of supplies, uniforms, and other expenses, in addition to the professed need for the children to supplement family income. Government figures put the number of working children between the ages of 10 and 14 at 8 percent of the total, half of whom go to school and also work and half of whom work exclusively. Unofficial estimates are higher.

According to the Ministry of Social Affairs, there are between 20,000 and 30,000 street children in Jakarta. Thousands more live in other cities. They sell newspapers, shine shoes, help to park or watch cars, and otherwise earn money. Many thousands more work in factories and fields (see Section 6.d.). According to NGO sources, there are thousands of children working on fishing platforms off the coast of North Sumatra for average monthly salaries of $12 to $18. There are reports of harsh living conditions and virtual abduction of children from parents who are misled into thinking the children will be paid and treated well.

There is reportedly growing Government concern about street children, because in some cities they have become well organized and more interested in protecting their rights.

NGO's criticize government efforts to help street children and working children as inadequate, although the Government is beginning to address the problems. The Ministries of Manpower, Education, Welfare, and Foreign Affairs, along with the Regional Planning Board, the United Nations Development Program, and four indigenous NGO's are designing a program to address the needs of working children. The project incorporates many ideas generated by the NGO community, including establishing "open houses" in targeted areas which will provide vocational training and basic education to street children. The project has begun on a pilot basis in Jakarta and Surabaya, and is planned for Bandung, Yogyakarta, Semarang, Ujung Pandang, and Medan.

Another approach being taken to the street children problem utilizes the National Program for Discipline and Clean Cities Decree. The street children are physically removed from cities by bus. Usually, they are taken outside the city and left there. Sometimes they are taken to "holding houses" where they are first interrogated and later released. One NGO reported that in the latter part of the year, Bandung city expanded efforts to "clean" the streets of street children, and was busing them out of the city several times a week.

NGO's working for the rights of children experienced increased harassment by the authorities. Several groups have reported that it became more difficult to obtain the required government permission for their activities. An exhibition and seminar about street children and violence planned by an NGO was canceled by the authorities the day before it was to open. Visiting street children were put in buses and escorted out of the region by the military.

Child prostitution and other sexual abuses occur, but data on their incidence are lacking. While there are laws designed to protect children from indecent activities, prostitution, and incest, the Government has made no special enforcement efforts in these areas. Greater attention was paid to the problem of child prostitution in the press, which may have resulted in increasing awareness of a problem that is poorly documented.

A separate criminal justice system for juveniles does not exist. Police officials admit that juveniles are often imprisoned with adult offenders. Currently juvenile crime is handled by ordinary courts. A juvenile justice law was passed December 19. It defines juveniles as children between the ages of 8 and 18, and establishes a special court system and criminal code for them. The draft bill had been controversial because four articles were seen as not in line with Islamic law and doctrine. They covered custody, adoption, neglected children, and care of delinquents, and among other things would have permitted the adoption of Muslim children by non-Muslims. The Government removed the contentious article to secure passage of the bill.

A form of female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced in some parts of Indonesia. There are no statistics available; the only information available is anecdotal. Usually a small section of the tip of the clitoris is cut or a small incision is made with the purpose of drawing a few drops of blood. Total removal of the clitoris is not the objective of the practice, although it does occur if ineptly performed. It usually takes place within the first year after birth, often on the 40th day, though it can be done up to age seven. It is performed either at a hospital or, especially in rural areas, by a local traditional practitioner or "dukun." More severe forms of FGM are reportedly practiced in certain areas.

People with Disabilities

The Constitution stipulates that the Government provide care for orphans and the disabled, but does not specify how the term "care" should be defined, and the provision of education to all mentally and physically disabled children has never been inferred. Regulations specify that the Government establish and regulate a national curriculum for special education by stipulating that the "community" provide special education services to its children.

There are no accurate statistics on the numbers of disabled in the general population. Families often hide their disabled family members to avoid social stigma or embarrassment. The disabled face considerable discrimination in employment, although there are factories that have made special efforts to hire disabled workers. In several provinces there are "rehabilitation centers" for the disabled. Disabled people are reportedly taken off the streets by the authorities and brought to these centers for job training.

NGO's are the primary providers of education for the disabled. There are currently 1,084 schools for the disabled; 680 are private, and 404 are government schools. Of the government schools 165 are "integrated," serving both regular and special education students. In Jakarta there are 98 schools for the disabled, 2 of which are government-run, and 96 of which are private. The Government also runs three national schools for the visually, hearing, and mentally disabled. These schools accept children from throughout Indonesia.

There is no law that mandates accessibility to buildings and public transportation for the disabled, and virtually no buildings or public transportation are designed with such accessibility in mind.

Indigenous People

The Government considers the term "indigenous people" to be a misnomer, because it considers all Indonesians to be indigenous. Nonetheless, it publicly recognizes the existence of several "isolated communities," and that they have a right to participate fully in political and social life. The Government estimates the number of people in isolated communities is 1.5 million. This includes, but is not limited to, groups such as the Dayak population in Kalimantan who live in remote forest areas, indigenous communities throughout Irian Jaya, and economically disadvantaged families living as sea nomads on boats near Riau in east Sumatra and near Ujung Pandang in Southern Sulawesi. Critics maintain that the Government's approach is basically paternalistic and designed more to integrate indigenous people more closely into Indonesian society than to protect their traditional way of life. Human rights monitors criticize the Government's transmigration program for violating the rights of indigenous people (see Section 1.f.).

A majority of the cases brought to legal aid organizations throughout Indonesia concern complaints about land seizure. According to a law derived from Dutch practices, all subsurface mineral resources belong to the Government. The Basic Agrarian Law states that land rights cannot be "in conflict with national and state interests," which provides the Government with a broad legal basis for land seizures. When disputes cannot be settled the Government has the authority to define fair compensation for land.

There are a number of reports of the use of intimidation, sometimes by the authorities, for land acquisition. In East Kalimantan, according to a foreign human rights group, 14 men were severely mistreated by military personnel after failed negotiations over a land dispute between villagers and a logging company (see Section 1.c.). In West Kalimantan reliable sources reported that local military accompanied plantation owners during negotiations with local land owners for land acquisition. In this case, although intimidation was used, two villages still refused to relinquish their land.

Where indigenous people clash with development projects, the developers almost always win. Decisions regarding development projects, resource-use concessions, and other economic activities are generally carried out without the participation or informed consent of the affected communities. Indonesian environmental NGO's that have sought to aid these communities have been subjected to verbal attacks, raids, and other forms of intimidation by government security forces.

Tensions with indigenous people in Irian Jaya, including in the vicinity of a foreign mining concession area near Timika, continued, highlighted by large-scale rioting by Irianese tribesmen in March. The Government and the foreign mining company alleged that Indonesian environmental NGO's and international NGO's had prodded the tribesmen to action. The Government and the foreign mining company have since tried to reach a financial settlement with tribal representatives. Indigenous Irian

Jaya residents complain of racism, religious bias, paternalism, and condescension as constant impediments to better relations with non-Irian people, including members of the Government, the military, and the non-Irian business community. They also complain of abusive behavior by the Indonesian security forces (see Section 1.a.). Rioting in numerous Irian Jaya towns, including Timika/Tembagapura, Nabire, Jayapura, and Wamena, resulted in several deaths and many injuries. The riots tended to pit newly arrived nonindigenous peoples against indigenous groups who claimed that the "outsiders" were monopolizing jobs, exploiting local labor, and illegally expropriating indigenous lands. As a result of the deaths of civilians and other violent human rights abuses brought to light in 1995, four soldiers received prison terms in February (see Section 1.a.) Irianese have expressed anger that the Government has prosecuted only one of six cases identified in a September 1995 Human Rights Commission report as warranting government prosecution. In the one case that was prosecuted, the military court addressed only charges of murder and did not take up charges of rape of indigenous women.

Human rights monitors have expressed concern about the practices of some logging companies that recruit indigenous people for work. According to Human Rights Watch/Asia, this activity in Irian Jaya has separated these people from their traditional economies. In many cases, these new recruits for development projects are ill-prepared for the modern world, leading to their being forced into debt and then indentured (see Section 6.c.). Most civil servants in local governments in Irian Jaya and other isolated areas continue to come primarily from Java, rather than from the local indigenous population.

Religious Minorities

There were several instances of religion-related mob violence. In July several Christian churches were burned in Surabaya. On October 10, Muslim rioters associated with the National Ulama (NU) Islamic organization burned or ransacked and destroyed 24 churches and a Buddhist temple on the East Java coast. A Protestant minister, his wife and child, and a church worker were burned to death. The riot was triggered by perceived insufficiency of a sentence meted out by a court for a man's alleged blasphemy against Islam. NU leader Abdurrahman Wahid, in an effort to maintain calm after the riot, expressed regrets for the riot. The reported police beating of Islamic teachers on December 23, along with the false rumor that one of the teachers had been killed, apparently was the cause of serious rioting in Tasikmalaya, West Java on December 26, involving thousands of people. Although sparked by anger over police abuse, the rioting reportedly targeted businesses, factories, and shops, including those owned by members of the Chinese community, churches, and police offices. The incident was being investigated by the National Human Rights Commission and the Legal Aid Foundation (LBH) as the year ended.

In September a group of young people burned a Catholic church in east Jakarta. The group was apparently Muslim, and was seeking to eliminate non-Muslim influences in the area. In August, in Viqueque, East Timorese demonstrated against government-sponsored Muslim migrants to the area, and burned a number of shops owned by these migrants. In June, also in East Timor, the desecration of either a picture or statue of the Virgin Mary in Baucau sparked rioting on the part of the Catholic East Timorese. This led to numerous arrests and at least one serious injury.

National/Racial/Ethnic Minorities

The Government officially promotes racial and ethnic tolerance. Ethnic Chinese, at approximately 3 percent of the population by far the largest nonindigenous minority group, are the target of both official and societal discrimination. Since 1959 noncitizen ethnic Chinese have been denied the right to run businesses in rural Indonesia. Regulations prohibit the operation of all Chinese schools, formation of exclusively Chinese cultural groups or trade associations, and public display of Chinese characters. Since August 1994, firms working in the tourist industry have been allowed to produce Chinese-language brochures, programs, and similar material for Chinese-speaking tourists. However, Chinese-language publications, with the exception of one government-owned daily newspaper, may neither be imported nor produced domestically.

Private instruction in Chinese is generally prohibited but takes place to a limited extent, and since 1994 has been allowed to train employees in the tourism industry. The University of Indonesia has Chinese-language courses. State universities have no formal quotas that limit the number of ethnic Chinese. The law forbids the celebration of the Chinese New Year in temples or public places, but its enforcement is limited.

East Timorese and various human rights groups charge that the East Timorese are underrepresented in the civil service in East Timor. The Government has made some efforts to recruit more civil servants in both East Timor and Irian Jaya, and there has been some increase in the number of civil servant trainees for these two provinces, despite a "no growth" policy for the civil service as a whole. East Timorese and Irianese, however, have been very reluctant to accept government jobs outside their own provinces. East Timorese have expressed concerns that the transmigration program (see Section 1.f.) could lead to fewer employment opportunities and might eventually destroy East Timor's cultural identity. However, transmigration projects in Timor have been reduced in recent years and are limited to Hindus and Christians to avoid religious friction. In 1995 a government official claimed that 75 percent of the transmigrants were from other parts of East Timor, and only 25 percent from other areas. In the last several years, informal predominantly Muslim migration to the province has sparked socioeconomic tension in urban areas, proving an even greater concern than the formally sponsored transmigration program.

Section 6. Worker Rights

a. The Right of Association

Private sector workers are by law free to form worker organizations without prior authorization. However, government policies and current numerical requirements for union recognition constitute a significant barrier to freedom of association and the right to engage in collective bargaining. The Department of Manpower uses a regulation that requires that a union be set up "by and for workers" to deny recognition to groups that include people it considers nonworkers, such as lawyers or human rights activists, who are involved as labor organizers. Until 1994 only the government-sponsored Federation of All-Indonesian Trade Unions (SPSI) could legally bargain on behalf of employees or represent workers in the Department of Manpower's labor courts. However, single company unions were widespread in practice. A 1994 regulation provides that workers in a single company with more than 25 employees can join together as a "plant-level union" and negotiate a legally binding agreement with their employer outside the SPSI framework, although the Government encourages these plant-level unions to join the SPSI. According to the Department of Manpower, 1,144 plant-level unions had been established by year's end. Nongovernmental organizations have charged, however, that many of these unions are "yellow unions" formed by company management with little or no worker participation. There are also credible reports that local Department of Manpower officials accept payments from employers to set up plant-level unions in their factories because they are considered even weaker than SPSI. On the other hand, there are numerous reports of successful strikes by these single company unions, particularly against foreign ventures.

There is a de facto single union system, the SPSI and its 13 federated sectoral unions. The SPSI completed in 1995 a transformation from a unitary (centralized) to a federative (decentralized) structure. Its 13 industrial sectors are now registered as separate national unions; the SPSI is the only trade union federation recognized by the Department of Manpower. The Minister of Manpower has stated that any unions that are formed should affiliate with the SPSI federation, and that the Government will not recognize any unions outside the federation. The Government's stated policy is to improve effectiveness of the recognized SPSI unions rather than to allow the formation of alternative organizations.

The Government may dissolve a union if it believes that the union is acting against Pancasila, although it has never actually done so, and there are no laws or regulations specifying procedures for union dissolution.

Two labor groups other than SPSI are active but not recognized by the Government: the Serikat Buruh Sejahtera Indonesia (SBSI, Indonesian Prosperity Trade Union), and the Alliance of Independent Journalists (AJI). The SBSI, created in 1992, claims that it has formed the necessary number of factory-level units to meet the legal requirements for registration as a labor union, but its most recent request (in November 1994) for registration as a trade union was denied. The Department of Manpower has also blocked SBSI attempts to register with the Department of Home Affairs as a social organization under the ORMAS Law. The Government considers the SBSI to be illegal. Although the Government has not disbanded it, it continues to harass the SBSI, by means such as disbanding its meetings and training seminars. Specific government actions against the SBSI included the detention of Roliati Harefa, an SBSI organizer in Binjai, North Sumatra, for a month in January and again in April. Assault charges were filed against her after she had complained to the police that her supervisor had assaulted her. SBSI leader Muchtar Pakpahan was arrested on July 30. His trial on charges of subversion and sowing hatred against the Government began on December 12 and was still proceeding at year's end. Before his trial, the Government stated that he was being held for political activities, not labor activities. However, the Government's indictment against Pakpahan refers to his activities as head of the SBSI, states that he undertook activities together with fellow board members of the SBSI, and lists specific labor activities (e.g., a labor rally) as the basis for the charges against him. In October the Supreme Court, in an unprecedented decision, reinstated an old conviction against Pakpahan for fomenting labor unrest, thus requiring him to serve out a 4-year sentence that it had previously overturned.

Government pressure on the SBSI intensified after the July 27 violence in Jakarta, as the Attorney General's Office has questioned members of the union's Central Leadership Council and SBSI organizers around the country. Police confiscated SBSI archives from the union's central office in Jakarta, and closed down the union's office in Garut, West Java. In November a senior official of the Ministry of Home Affairs stated that the SBSI was one of the trouble-making NGO's the Government would investigate (see Section 4). It is widely believed that the Government's actions against the SBSI leadership were intended to discredit or destroy the organization.

The Association of Indonesian Journalists (PWI) is the only government-sanctioned organization representing journalists. Although press laws stipulate that all journalists must belong to PWI, a few journalists have avoided membership. In the wake of the 1994 banning of three publications approximately 80 journalists formed the Alliance of Independent Journalists (AJI) as an alternative to the government union. A government crackdown in March 1995 resulted in the imprisonment of three AJI members charged with "sowing hate." Despite occasional pressure on publications employing AJI members, the Government allows AJI a continued underground existence.

Because of past Department of Manpower regulations, many SPSI factory units are led by persons who have little credibility with their units' members because they were selected by employers. A 1995 regulation states that employees must only notify their employer that they wish to form a union and that they may proceed if they do not receive a response from their employer within 2 weeks. Despite this provision, strikes continue to occur when employers attempt to prevent the formation of union branches. These strikes are generally successful, and the formation of an SPSI unit follows shortly thereafter. However, workers who are active in the formation of the union are frequently dismissed and have no practical protection by either law or government practice.

Civil servants are not permitted to join unions and must belong to KORPRI, a nonunion association whose Central Development Council is chaired by the Minister of Home Affairs. State enterprise employees, defined to include those working in enterprises in which the State has a 5-percent holding or greater, usually are required to join KORPRI, but a small number of state enterprises have SPSI units. Teachers must belong to the Teachers' Association (PGRI). While technically classed as a union, the PGRI continues to function more as a welfare organization and does not appear to have engaged in trade union activities such as collective bargaining. Mandatory KORPRI and PGRI contributions are automatically deducted from teachers' salaries.

Unions may draw up their own constitutions and rules and elect their representatives. However, the Government has a great deal of influence over the SPSI and its federated unions. The head of SPSI and many members of the Executive Council are also members of GOLKAR and its constituent functional groups. These persons have been given positions in the federated industrial sector unions. The Minister of Manpower is a member of the SPSI's Consultative Council.

The Government announced late in 1995 its intention to relax a regulation requiring police approval for all meetings of five or more people of all organizations outside offices or normal work sites (see Section 2.b.). However, in practice this regulation continues to apply to union meetings. Permission was routinely given to the SPSI but not to rival organizations such as the SBSI.

In 1994 the International Confederation of Free Trade Unions lodged a formal complaint against Indonesia with the ILO, accusing the Government of denying workers the right to set up unions of their own choosing, harassing independent workers' organizations, and of taking other actions contrary to ILO standards on freedom of association and the right to collective bargaining. In considering this complaint, the ILO's Committee on Freedom of Association in November "deeply deplored" the fact that "virtually no remedial action was taken by the Indonesian authorities" in response to old and new allegations against it. The Committee found that "Indonesian legislation comprises requirements that are so stringent as to constitute a major limitation to freedom of association." The Committee urged the Government to "take all the necessary measures" to ensure that the SBSI be registered "without delay." The Committee also concluded that "there exists a strong presumption, which the Government has not reversed, to the effect that under the cover of allegations of subversive activity, the charges brought and the measures taken against Mr. Pakpahan are linked to his trade union activities." It urged the Government to "take without delay the necessary measures for Mr. Pakpahan's release (and) to drop the charges related to the July 1996 events."

While Pancasila principles call for labor-management differences to be settled by consensus, all organized workers except civil servants have the legal right to strike. While state enterprise employees and teachers rarely exercise this right, private sector strikes are frequent. Before a strike can occur legally in the private sector, the law requires intensive mediation by the Department of Manpower and prior notice of the intent to strike. However, no approval is required. In practice, dispute settlement procedures are not followed, and formal notice of the intent to strike is rarely given because Department of Manpower procedures are slow and have little credibility with workers. Therefore, sudden strikes tend to result from longstanding grievances or recognition that legally mandated benefits or rights are not being received. Strike leaders often lose their jobs and have no legal recourse for reinstatement. The number of strikes during the year increased to 346 from 276 in 1995, but most of the increase occurred before the July 27 violence and the subsequent crackdown on NGO's. NGO's believe that the actual number of strikes is higher, but agree with the general trend. The largest-scale labor protests occurred in Surabaya on July 8-9, involving thousands of workers. Police arrested 26 persons in connection with this incident.

The SPSI maintains international contacts but its only international trade union affiliation is the ASEAN Trade Union Council.

b. The Right to Organize and Bargain Collectively

Collective bargaining is provided for by law, and the Department of Manpower promotes it within the context of the national ideology, Pancasila. Until 1994 only recognized trade unions--the SPSI and its components--could legally engage in collective bargaining. Since early 1994, government regulations also permit unaffiliated plant-level workers' associations to conclude legally binding agreements with employers, and some 24 had done so by mid-1995, according to government figures. Agreements concluded by any other groups are not considered legally binding and are not registered by the Department of Manpower. Once notified that 25 employees have joined a registered SPSI or independent plant-level union, an employer is obligated to bargain with it.

In companies without unions, the Government discourages workers from utilizing nongovernment outside assistance, e.g., during consultations with employers over company regulations. Instead, the Department of Manpower prefers that workers seek its assistance and believes that its role is to protect workers. There are credible reports that for many companies, consultations are perfunctory at best and usually with management-selected workers; there are also credible reports to the contrary from foreign companies. Over half of the factory-level SPSI units have collective bargaining agreements. The degree to which these agreements are freely negotiated between unions and management without government interference varies. By regulation, negotiations must be concluded within 30 days or be submitted to the Department of Manpower for mediation and conciliation or arbitration. Most negotiations are concluded within the 30-day period. Agreements are for 2 years and can be extended for 1 year.

According to NGO's involved in labor issues, the provisions of these agreements rarely go beyond the legal minimum standards established by the Government, and the agreements are often merely presented to worker representatives for signing rather than being negotiated. Although government regulations prohibit employers from discriminating or harassing employees because of union membership, there are credible reports from union officials of employer retribution against union organizers, including firing, which is not effectively prevented or remedied in practice. Some employers reportedly have warned their employees against contact with union organizers from the unrecognized SBSI organization. Charges of antiunion discrimination are adjudicated by administrative tribunals. However, because many union members believe the tribunals generally side with employers, many workers reject or avoid the procedure and present their grievances directly to the National Human Rights Commission, Parliament and other agencies. Administrative decisions in favor of dismissed workers tend to be monetary awards; workers are rarely reinstated. The provisions of the law make it difficult to fire workers, but the law is often ignored in practice.

Commenting on antiunion discrimination and restrictions on collective bargaining in the context of ILO Convention 98 on the right to organize and bargain collectively, the ILO's Committee on the Application of Conventions and Recommendations' June report expressed "the firm hope that the Government will provide it in its next report with information with regard to the measures actually taken in order to bring law and practice more in line with the provisions of the Convention, and in particular to strengthen the protection of workers against acts of antiunion discrimination accompanied by effective and dissuasive sanctions, to adopt specific provisions to protect workers' organizations against acts of interference by employers or their organizations and to eliminate the restrictions imposed on free collective bargaining."

On June 1, the Minister of Manpower issued a new regulation permitting unions affiliated with the SPSI to collect union dues directly through the checkoff system, rather than having the Department of Manpower collect dues and transfer them to the SPSI. Dues are to be collected at the local level and then transmitted up the union chain.

The armed forces, which include the police, continue to involve themselves in labor issues, despite the Minister of Manpower's revocation in 1994 of a 1986 regulation allowing the military to intervene in strikes and other labor actions. However, a 1990 decree giving the Agency for Coordination of National Stability (BAKORSTANAS) authority to intervene in strikes in the interest of political and social stability remains in effect. There are some indications that military involvement in labor matters decreased from 1995 to mid-1996, but not all observers agree that this has occurred. Workers charge that members of the security forces attempt to intimidate union organizers and strike leaders and have been present in significant numbers during some strikes, even when there has been no destruction of property or other violence. Military officials occasionally have been present during negotiations between workers and management and other union activities. Their presence has been described as intimidating by plant-level union officials.

Labor law and practice are the same in export processing zones as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor

The law forbids forced labor, and the Government generally enforces it. However, there are credible reports of teenage children being forced to work under highly dangerous conditions on fishing platforms off the coast of northeastern Sumatra. These platforms are miles off shore, with access controlled by the employers, and in many cases the children are virtual prisoners on the platforms and forced to work for up to 3 months at a time for well below the minimum wage. According to knowledgeable sources, hundreds of children may be involved. The Government has done little to address the problem. There are also allegations that indigenous people who take jobs in the modern sector sometimes end up indebted to their employers, and exploited as indentured labor (see Section 5 Indigenous People).

d. Minimum Age for Employment of Children

Child labor exists in both urban and rural areas, and in both the formal and informal sectors. According to a 1995 report of the Indonesian Central Bureau of Statistics, 4 percent of Indonesian children between the ages of 10 and 14 work, and another 4 percent work in addition to going to school. Indonesia was one of the first countries to be selected for participation in the ILO's International Program on the Elimination of Child Labor (IPEC), and it signed a memorandum of understanding with the ILO in 1992 to guide collaboration under this program. Recommendations for an action plan were developed at a national conference in Bogor in 1993. By the end of the year, 130 government labor inspectors had received ILO-sponsored training on child labor matters under the IPEC program. However, enforcement remains lax.

The Government acknowledges that there is a class of children who must work for socioeconomic reasons, and in 1987 the Minister of Manpower issued regulation per-01/men/1987, "Protection of Children Forced to Work," to regulate this situation. This regulation legalizes the employment of children under the age of 14 who must work to contribute to the income of their families. It requires parental consent, prohibits dangerous or difficult work, limits work to 4 hours daily, and requires employers to report the number of children working under its provisions. It does not set a minimum age for children in this category, effectively superseding the colonial-era government ordinance of December 17, 1925, on "Measures Limiting Child Labor and Nightwork of Women," which is still the current law governing child labor and sets a minimum age of 12 for employment. The 1987 regulation is not enforced. No employers have been taken to court for violating its restrictions on the nature of employment for children, and no reports are collected from establishments employing children.

Act No. 1 of 1951 was intended to bring into force certain labor measures, including provisions on child labor that would replace those of the 1925 legislation. However, implementing regulations for the child labor provisions have never been issued. Thus the child labor provisions in the 1951 Act have no validity.

e. Acceptable Conditions of Work

There is no national minimum wage. Rather, area wage councils working under the supervision of the national wage council establish minimum wages for regions and basic needs figures for each province--a monetary amount considered sufficient to enable a single worker to meet the basic needs of nutrition, clothing, and shelter. While Indonesia has succeeded in dramatically lowering the level of poverty throughout the country, the minimum wage rates until recently have usually lagged behind inflation and even the basic needs figures. The Government raised minimum wage rates each of the last 3 years, and in 1996 required employers to pay workers for 30 days during a month. In Jakarta the minimum wage is about $2.28 (Rp 5200) per day. An additional increase is planned for early 1997.

There are no reliable statistics on the number of employers paying at least the minimum wage. Independent observers' estimates range between 30 and 60 percent. Several SPSI sector chairmen signed agreements with industry leaders delaying implementation of the minimum wage in their sectors. According to Department of Manpower figures, the Department investigated 75 cases of violations of labor laws during the year. Of the 28 cases decided by the end of the year, 6 cases resulted in prison sentences for company management, and 21 in fines; 1 employer was found not

guilty. The Department of Manpower increased the number of labor inspectors and announced a scheme of "blacklisting" offending companies, but enforcement of minimum wage and other labor regulations remains inadequate, and sanctions too light. Over 200 companies have applied for and been granted relief from the latest minimum wage increases on the ground that the companies would otherwise close. In December the State Secretariat submitted a draft basic labor law which, among other things, would raise statutory fines, which have been devalued by inflation, to more appropriate levels. Some observers believe that increased government pressures on employers and memories of the 1994 Medan riots have improved minimum wage compliance.

Labor law and ministerial regulations provide workers with a variety of other benefits, such as social security, and workers in more modern facilities often receive health benefits, free meals, and transportation. The law establishes 7-hour workdays and 40-hour workweeks, with one 30-minute rest period for each 4 hours of work. The law also requires 1 day of rest weekly. The daily overtime rate is 1 1/2 times the normal hourly rate for the first hour, and 2 times the hourly rate for additional overtime. Regulations allow employers to deviate from the normal work hours upon request to the Minister of Manpower and with the agreement of the employee. Workers in industries that produce retail goods for export frequently work overtime to fulfill contract quotas. Observance of laws regulating benefits and labor standards varies from sector to sector and by region. Employer violations of legal requirements are fairly common and often result in strikes and employee protests. The Ministry of Manpower continues publicly to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards are weak.

In December the Government submitted to Parliament a draft basic labor law designed to update, clarify, and codify laws and regulations affecting labor. Some NGO representatives have criticized the draft for not going far enough to protect worker rights.

Both law and regulations provide for minimum standards of industrial health and safety. In the largely Western-operated oil sector, safety and health programs function reasonably well. However, in the country's 100,000 larger registered companies outside the oil sector, the quality of occupational health and safety programs varies greatly. The enforcement of health and safety standards is severely hampered by the limited number of qualified Department of Manpower inspectors as well as by the low level of employee appreciation for sound health and safety practices. Allegations of corruption on the part of inspectors are common. Workers are obligated to report hazardous working conditions. Employers are forbidden by law from retaliating against those who do, but the law is not effectively enforced.

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